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C O N F I D E N T I A L SECTION 01 OF 04 KHARTOUM 000533

SIPDIS

DEPT FOR SE GRATION, S/USSES, AF A A/S, AF/C, AF/E
NSC FOR MGAVIN AND HUDSON
DEPT PLS PASS USAID FOR AFR/SUDAN
ADDIS ABABA ALSO FOR USAU

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TAGS: [ASEC](#) [PGOV](#) [PREL](#) [KPKO](#) [UN](#) [AU](#) [SU](#)

SUBJECT: SE GRATION NEGOTIATES WITH GOS TO URGENTLY FILL
HUMANITARIAN GAPS IN DARFUR AND THE THREE AREAS

REF: A. KHARTOUM 485

[1](#)B. KHARTOUM 475

[1](#)C. KHARTOUM 470

[1](#)D. KHARTOUM 469

[1](#)E. KHARTOUM 468

Classified By: CDA Alberto M. Fernandez, for reasons 1.4 (b) and (d)

[1](#)1. (C) Summary: During his first visit to Sudan, the President's Special Envoy to Sudan Scott Gration held intensive discussions with senior NCP officials April 8-10 in Khartoum in order to resolve the NGO expulsion crisis and ensure that life-saving humanitarian assistance reaches beneficiaries in Darfur, the Three Areas, and eastern Sudan. NCP officials initially showed no flexibility on a reversal of the expulsion. However, following intensive discussions, NCP officials were willing to allow new NGOs to enter Sudan and to dramatically improve the operating environment for all NGOs. In three specific cases (plus one contractor), the new8 NGOs will actually be reconstituted from large NGOs that were expelled) Mercy Corps, Save the Children (US), CARE (US), and PADCO will all return under different names with different international staff following a transition period. The return of these four organizations will allow the U.S. to urgently restore 65-75 percent of the humanitarian assistance gap in Darfur and 80 percent of the humanitarian gap in the Three Areas. The remaining gap may be met by transferring programs to existing NGOs, by other new NGOs, or by an increase in UN capacity. In addition, the NCP agreed to significantly improve the operating environment for all NGOs) for example by recommitting to the 2007 Joint Communiqué on humanitarian operations, by issuing multiple entry and exit visas to all registered international NGO staff (a longstanding major impediment for NGOs), by not requiring travel permits, to include three major donors as permanent members of the High Level Commission instead of one rotating observer donor, and by creating an appeal process above the High Level Commission to ensure that the Humanitarian Affairs Commission (HAC) adheres to the new rules. The NCP stated openly that it is willing to make these concessions now because it would like to begin discussions with the Special Envoy regarding the bilateral relationship. It is our assessment that without deeper engagement with this regime regarding tangible steps to improve the bilateral relationship, the U.S. will not be able to adequately influence the Darfur peace process nor CPA implementation in order to achieve our goals in these two critical areas. End summary.

[1](#)2. (C) Following several positive introductory meetings with NCP regime officials (reftels), Presidential Advisor Nafie

Ali Nafie invited SE Gration and delegation to a working dinner April 8. Presidential Advisor Mustafa Othman Ismail told SE Gration that this dinner would provide an opportunity to discuss the NGO issues, so it was apparent that the NCP was ready to negotiate seriously on the NGO issue but wanted to begin discussions with a personal touch - a dinner - something that is very important in Sudanese society. In all of his meetings with senior NCP officials leading up to the negotiations (reftels) SE Gration stated clearly that he would not be able to engage further with the regime if he did not return to the U.S. with a solution on the NGO/humanitarian assistance issue.

¶3. (C) Several senior NCP officials welcomed SE Gration and team (USSES Shortley, CDA Fernandez, USAID Director Hammink, P/E Chief Pratt, USAID/OFDA Khandagle, poloff Braunohler) to the dinner including Presidential Advisors Nafie Ali Nafie and Mustafa Othman Ismail, but both indicated that Presidential Advisor Ghazi Sallahudin had been designated to lead talks and would host the dinner. Nafie and Ismail departed before the dinner with the excuse that they had a meeting with President Bashir. (Note: MFA Americas Director Wali Nasreldin told polchief that Ghazi had been selected to lead the talks because his meeting with SE Gration was viewed by the regime to have been the most positive (reftel), so the government wanted to build on this momentum. We note that Ghazi was the lead negotiator at CPA talks in Naivasha before Vice President Ali Osman Taha took over at the end. End note.) Ghazi was joined in the discussions by NISS Director Salah Ghosh, MFA U/S Mutriff Siddiq, NCP negotiators Sayed al Khateeb and Yehia Babiker Hussein, and MFA Americas Director Wali Nasreldin.

¶4. (C) Ghazi and his colleagues made lengthy introductory remarks stating clearly that Sudan would like to improve

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relations with the U.S. but requesting that the U.S.-Sudan dialogue not only be about NGOs. They requested that their talks with the Special Envoy (even during this visit) also cover broader issues of how to improve the bilateral relationship and asked that the U.S. agree to a framework on how to improve relations. All noted that the Bush Administration had previously explicitly promised to lift economic sanctions and remove Sudan from the State Sponsors of Terrorism List (for example at CPA negotiations in Naivasha, Kenya in 2005 and earlier) but that the U.S. continually raised the bar rather than make good on these past pledges. Ghazi acknowledged that this was due in part to the war in Darfur, but noted that the reality in Darfur today is different than in 2003-2005 and stated that Sudan would like to make peace in Darfur and sees U.S. leadership in the Darfur peace process as essential to achieving a solution.

¶5. (C) SE Gration agreed that a discussion of the bilateral relationship needs to occur, but explained that he could not move forward on those discussions until there was an urgent solution on the pressing Darfur NGO/humanitarian issue. Gration requested that the GOS and U.S. reach an expeditious solution on the NGO issue in order to be able to move on to discussions of CPA implementation and the pursuit of peace in Darfur. Gration explained that the goal of the discussions should be to restore lost humanitarian capacity one hundred percent. The SE expressed a willingness to discuss bilateral relations and stated his hope that during his tenure the U.S. and Sudan would be able to achieve an improvement in the relationship. Ghazi responded that the government was willing to find a solution on the NGO/humanitarian issue (the regime preferred to discuss the humanitarian issue rather than putting the emphasis on the NGOs) as long as the discussions were part of a larger framework of discussions of the bilateral relationship. Ghazi said that the end goal of the government is an improved relationship with the U.S. The regime wants constructive relations with the U.S. because &we can live without you but we prefer to live with you.8 Ghazi remarked several times on the hope that President Obama had given Sudanese and others in the Islamic world that the U.S. would seek to change its relationship with Islamic

countries. Ghazi said that if the U.S. continues to delay the lifting of sanctions and the removal of Sudan from the state sponsors of terrorism list, &we won,t make much progress.⁸ Gration explained that he would not make promises and could not say for sure when the U.S. would be able to unwind economic sanctions, but stated that all options should be on the table and expressed his willingness and desire to pursue an improved relationship with Sudan, so that together the U.S. and GOS could address the many issues that need attention in Sudan.

¶6. (C) Over the course of the next two days, SE Gration and team negotiated with Ghazi and team on how to rapidly restore humanitarian capacity in Darfur and the Three Areas. With regard to the NGOs, Ghazi acknowledged that there are indeed gaps in humanitarian assistance in Darfur as a result of the NGO expulsions, but said that there is a difference of opinion on the size and impact of these gaps. However, Ghazi accepted the UN/GOS assessment of the gaps and asked that this assessment be used as the basis for discussions of the actual gaps. Ghazi and his team also expressed strongly their desire that SE Gration know that they too care about the people of Darfur, and desired a solution that would allow humanitarian assistance to continue. Given the continued NCP insistence throughout the negotiations that the 13 expelled NGOs would not be able to return, SE Gration stated that his goal was to immediately restore capacity and provided the names of three major NGOs and a contractor (Save the Children- US, CARE- US, Mercy Corps, and PADCO) that must be allowed to return to restore life-saving capacity) otherwise within a month or more there would likely be a humanitarian emergency because it would not be possible to mobilize new NGOs in time to restore service delivery. He also lobbied forcefully for OXFAM-UK and SUDO. Gration explained that he had selected these organizations carefully because they would restore 65-75 percent %of the gap in Darfur and 80 percent of the gap in the Three Areas. Following much debate, Ghazi and team ultimately agreed to allow these organizations to return (less SUDO and OXFAM), but with different names/logos and different international staff following a transitional period of between two and three months. NISS Chief Salah Ghosh clarified that if there are critical international staff who are irreplaceable, they

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could be presented for approval on a case-by-case basis for short-term work only to quickly regain lost capacity. Ghazi explained that there must be a clear differentiation between these new NGOs and the expelled NGOs. They must not exceed their mandate, must not engage in political causes, and should focus only on delivering humanitarian assistance.

¶7. (C) Ghazi explained that one of the primary reasons that the NGOs were expelled was that they had engaged in political-advocacy work that exceeded a purely humanitarian mission. Therefore the new NGOs who come to work in Darfur must ensure the neutrality and impartiality of humanitarian operations. Ghazi also explained that it is a goal of the Sudanese government to build the capacity of Sudanese institutions and organizations. When pressed to explain President Bashir,s public statement that all international NGOs should leave Sudan within one year, Ghazi clarified that other international NGOs would not be expelled but that &Sudanization⁸ of relief and development work should be an objective and one of the goals of international NGOs should be to build the capacity of local NGOs. SE Gration and team noted that this was already standard practice for the UN and NGOs, and agreed and included capacity building of Sudanese organizations into the understanding.

¶8. (C) While the understanding to allow for the return of four major organizations under new names was a breakthrough (something neither the UN nor the AU nor the Arab League nor any other donor had been able to achieve after one month of intense diplomacy) the agreement to also improve the operating environment for NGOs in Darfur and in the Three Areas is actually a much greater achievement. With very little hesitation and always under the watchful eye of NISS Chief Ghosh, Ghazi quickly agreed to re-commit to full

implementation of the 2007 Joint Communiqué and to actually improve on this understanding by issuing multiple entry and exit visas for all INGO staff and by no longer requiring travel permits for NGO staff in Darfur, accepting &travel notification⁸ instead. Ghazi also agreed to allow organizations to cluster under UN umbrella agreements by sector, and to immediately sign all pending technical agreements within 30 days (by May 9), something the UN had been pursuing for weeks without success. Without these agreements, all NGOs were operating in Sudan illegally and constantly under threat of detention. The GOS also agreed to create a new monitoring system to review compliance with the Joint Communiqué and the U.S.-Sudan understanding, including agreement to have the three major donors (US, UK, EU) as permanent members of the High Level Commission and an appeal process above the HAC that would be chaired by a senior GOS official (likely MFA U/S Muttriff Siddiq) and likely attended by a NISS representative. Salah Ghosh said that it would be no problem for NISS to be represented but did not want this specified in the understanding (presumably to avoid a direct link on paper between the HAC and the NISS, which is widely assumed to be the case) as demonstrated by Ghosh,s watchful presence during the majority of the discussions). In addition, the NCP agreed to put in place joint communiqu(s) on each of the three areas as well related to NGO operations in those areas. This would have to be done with the SPLM under the CPA.

¶9. (C) SE Gration and team (S/USSES, CDA and USAID),consulted frequently with UN D/SRSG Ameerah Haq and her staff and Washington to ensure that the U.S. negotiations paralleled what the UN was trying to achieve in its own talks with the government, and had USAID concurrence. Haq stated on several occasions that the U.S.-negotiated understanding was far more than she expected given the regime,s behavior over the last month since the ICC indictment of President Bashir. She also stated that the improvements that had been negotiated on the operating environment for NGOs in Darfur represented a tremendous qualitative breakthrough if they are respected by the government, noting that grateful NGO workers would dub their multiple entry visas &Gration visas⁸. SE Gration also consulted with the CEOs of the four organizations that will be allowed back into Darfur and the Three Areas (and eastern Sudan) essentially all of Northern Sudan) and all four organizations agreed to the new operating conditions. SE Gration ensured that the door would be left open for other governments to advocate for their programs and NGOs, and Ghazi confirmed that &the UK government and Oxfam GB is welcome to come and talk with us, we are open to that.⁸

¶10. (C) With regard to the closure of expelled NGOs, the parties agreed that all institutional assets would be transferred to new or existing NGOs, and that personal assets

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would be returned. However, the parties spent several hours negotiating the issue of severance packages for local employees of expelled NGOs, despite an understanding that the expelled staff could be assumed by the new NGOs. The NCP insisted that since many NGOs had already agreed to pay six months severance to the employees as demanded by the Ministry of Labor and HAC, that it was too late to reverse this decision and ask the employees to return the money. Gration and team pointed out that the NGOs were expelled against their will, so HAC,s claim that this represented an &aggressive termination⁸ did not make sense. Nonetheless the NCP refused to budge on this issue and ultimately there was little choice but to accept that the local employees would receive six months severance pay. Ghazi agreed that severance pay requirements would be better defined in the future as per the full text of the current labor laws in order to avoid a repeat of this incident. Sudanese officials agreed that the requirements to pay six months severance was a mistake. However, as most NGOs had committed to pay or make their payment already, it was impossible to reverse. USAID also agreed to reimburse U.S. grantees severance outlays.

¶11. (C) Comment: SE Gration,s achievements during a ten-day

visit and three days of solid negotiations represent a significant potential breakthrough for NGO operations in Darfur and the Three Areas, and a significant step forward in U.S.-Sudan relations. At the same time, one must recognize that this is a regime adept at making agreements and slowly breaking them over time. It would not have been possible to make these gains without showing some signs that the U.S. is interested in improving the bilateral relationship with Sudan, and in point of fact the possibility of improved relations with the U.S. may be one of the few points of leverage with the Sudanese regime. Moreover, the NCP stated repeatedly that it wants our help resolving the political crisis in Darfur, and insisted that the understanding include a point stating that the U.S. will provide leadership to the Darfur peace process. The NCP clearly sees our heavy participation (as in Naivasha with the CPA and in Abuja with the DPA) as critical to achieving a final settlement. The NCP did not once raise the issue of the ICC or the possibility of an Article 16 deferral of the indictment during the entire negotiation, except in the context of their ire against France and the UK. Throughout the negotiations Ghazi had the lead on behalf of the NCP regime, but allowed Babiker or Khateeb to weigh in on certain points, especially the bilateral relationship. The powerful Ghosh,s role appeared to be keeping a close eye on Ghazi and team and to act as a veto at certain points) throughout the discussions Ghazi visibly turned to Ghosh for his reaction, and Ghosh would nod or shake his head as needed. Siddiq weighed in on occasion to clarify the actions of HAC and to assure SE Gration that the government would make good on its promises to review the work of HAC when problems arise) as part of the new appeal mechanism. This will be critical later on when Siddiq or another senior official reviews the actions of HAC and acts as arbiter when/if HAC does not allow for freedom of movement of NGO staff, or attempts to seize NGO assets.

¶12. (C) Comment Cont.: The NCP,s selection of Ghazi to lead negotiations was a good one, as he is far more positive and flexible (and pro-U.S.) than others such as Nafie Ali Nafie (despite Nafie,s PhD from UC Riverside) and has the experience of the CPA negotiations at Naivasha to guide him not only in negotiation techniques but also in understanding how the U.S. operates. It is likely that Ghazi will continue to be the primary negotiator with the U.S. if we continue our dialogue with this regime, which we strongly encourage if the U.S. hopes to make gains in achieving peace in Darfur and implementing key CPA milestones such as border demarcation, elections and a peaceful referendum on southern independence in 2011. The achievement of peace in Darfur, national elections, and a peaceful referendum on southern secession are worth discussions on normalization of relations with this brutal, untrustworthy but often pragmatic regime. We note that such a policy would be consistent with emerging U.S. policy toward other rogue states such as Syria, Cuba and Iran. End comment.

FERNANDEZ